

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

December 14, 2007

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.: 07od-163

Oahu, Maui, Kauai

Issuance of Right-of-Entry Permit to U.S. Army of Corps of Engineers on State Unencumbered and Encumbered Lands, Islands of Oahu, Maui, Kauai; Tax Map Key: (1) 3-9-11:7; (1) 4-1-14:1, 9, 10; (1) 5-2-2:1; (1) 5-6-1:2; (2) 2-1-1:3; (2) 5-8-15:11, (2) 6-1-1:2; (4) 1-5-1:1; (4) 3-9-1:2; (4) 4-2-1:1,2; (4) 4-4-1:1,2; (4) 4-6-1:1; (4) 5-4-1:1.

APPLICANT:

U.S. Army of Corps of Engineers c/o Wil Chee - Planning, Inc. whose business and mailing address is 1018 Palm Drive, Honolulu, Hawaii 96814.

LEGAL REFERENCE:

Sections 171-55, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated on Oahu, Maui and Kauai identified by tax map keys as shown on Exhibit A, and the tax maps attached as Exhibit B1 to B8.

AREA:

See Exhibit A.

ZONING:

State Land Use District: See Exhibit A.

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act, except (1) 3-9-011:007 and (1) 5-2-002:001 were acquired after August, 1959.

CURRENT USE STATUS:

See Exhibit A.

CHARACTER OF USE:

Site investigation for determination of the existence of unexploded ordinance purposes.

TERM OF RIGHT-OF-ENTRY:

One year. See Remarks.

CONSIDERATION:

Gratis.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with the "Division of Land Management's Environmental Impact Statement Exemption List", approved by the Environmental Council and dated April 28, 1986, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 5, Item No. 1 that states "Permission to enter State lands for the purpose of basic data collection, research, experimental management and resources evaluation activities such as archaeological survey, topographic survey, test borings for soil test, ground cover survey inspection of property for appraisal and development feasibility study purposes."

DCCA VERIFICATION:

Government agency. Not applicable.

APPLICANT REQUIREMENTS:

Obtain written concurrence from all users of the subject land. See Remarks.

REMARKS:

US Army Corps of Engineers, through their contractor, Parson Engineering, will be conducting an unexploded ordinance survey on Formerly Used Defense Sites (FUDS) in Hawaii. The survey team will be comprised of five individuals traversing a meandering path through the FUDS. The meandering path should be representative of the entire site and a determination will thereby be made if unexploded ordinance is present on the property. Field equipment will include magnetometers and a GPS unit. Minor brush clearing may be involved as well as the collection of soil and water samples.

The survey is tentatively scheduled for 12 months, commencing the end of this year. Staff suggests the Board authorize the Chairperson to extend the term of the right-of-entry for good cause, e.g. weather-related delays.

According to the consultant for this project, the various acreages shown on Exhibit A are for each entire tax map key, but the actual right-of-entry area may be for only a portion of the tax map key.

Staff solicited comments from the agencies/permittees/lessees appearing on Exhibit A. Kauai Island Co-op, Department of Hawaiian Home Lands, Commission on Water Resource Management, and Office of Conservation and Coastal Lands have no objections/no comments to the proposed request.

Division of State Parks and Division of Forestry and Wildlife requested the applicant to coordinate with their respective district staff for the proposed survey.

Office of Hawaiian Affairs (OHA) requests more information regarding future plans for the subject parcels, particularly if those plans include more military bombing or development. A copy of OHA's letter is attached as Exhibit C. The consultant, Wil Chee - Planning, Inc., through an email responded that "there are no future plans for more bombing or development of these sites."

U.S. National Park Service supports the intentions of the applicant to conduct the proposed survey, and provides some suggestions to the project, through their letter attached as Exhibit D.

During the initial stage of requesting comments from the tenants appearing on Exhibit A, the following tenants have not submitted any response as of the suspense date: Genera Texeira, Gay & Robinson, Milton & Melanie Ann Ching, Derek Rapozo, and Mary Thornas. Due to the nature of the survey, the applicant is required to obtain the written concurrences from these tenants prior to the issuance of right-of-entry permits for conducting the survey on their respective parcels. Therefore, staff expects multiple right-of-entry permits will be issued in due course.

Department of Health, Historic Preservation Division-DLNR, Division of Boating and Ocean Recreation-DLNR, and Planning Departments of respective counties have not submitted any response as of the suspense date.

Staff recommends gratis consideration for the issuance of the requested right-of-entry permit since the applicant is a government agency.

There are no other pertinent issues or concerns. Staff has no objections to the request.

RECOMMENDATION:

That the Board, subject to the Applicant fulfilling the Applicant Requirements above, authorize the issuance of a right-of-entry permit(s) to the U.S. Army Corps of Engineers covering the subject area under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:

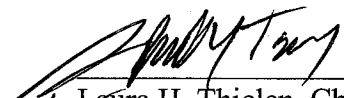
1. The standard terms and conditions of the most current right-of-entry permit form, applicable to the U.S. Government, as may be amended from time to time;
2. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State;
3. Authorize the Chairperson to issue future right-of-entries to the Applicant in relation to its site investigation for determination of the existence of unexploded ordnance purposes.


Respectfully Submitted,



Barry Cheung
Land Agent

APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson 

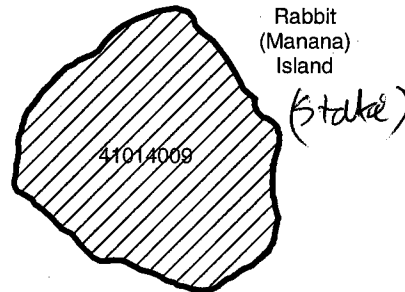
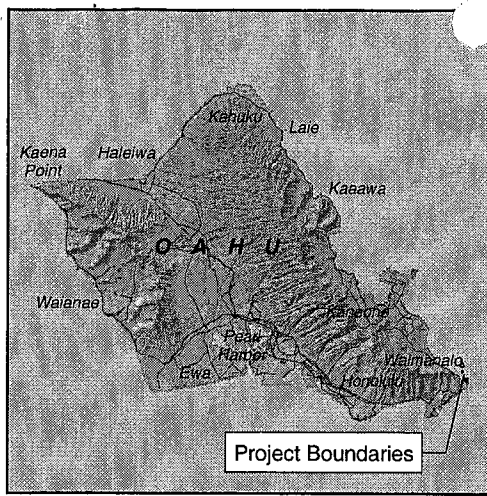
US ACOE - Right-of-Entry

| Site | TMK | TMK Size (ac) | State Land Use | Encumbrances | Agency/ Tenant |
|------------------------------------|-----------------|---------------|----------------|--------------|----------------|
| Makapuu Lighthouse Reservation | (1) 3-9-011:007 | 24.23 | Conservation | EO3520 | State Parks |
| Makapuu Lighthouse Reservation | (1) 4-1-014:001 | 15.27 | Conservation | EO3520 | State Parks |
| Rabbit Island | (1) 4-1-014:009 | 67.00 | Conservation | EO532 | DOFAW |
| Kaohikaipu Island | (1) 4-1-014:010 | 11.00 | Conservation | EO532 | DOFAW |
| Pacific Jungle Combat Training | (1) 5-2-002:001 | 1,176.99 | Conservation | EO3518 | State Parks |
| Oahu Target Island/Mokuauia Island | (1) 5-6-001:002 | 12.43 | Conservation | EO532 | DOFAW |

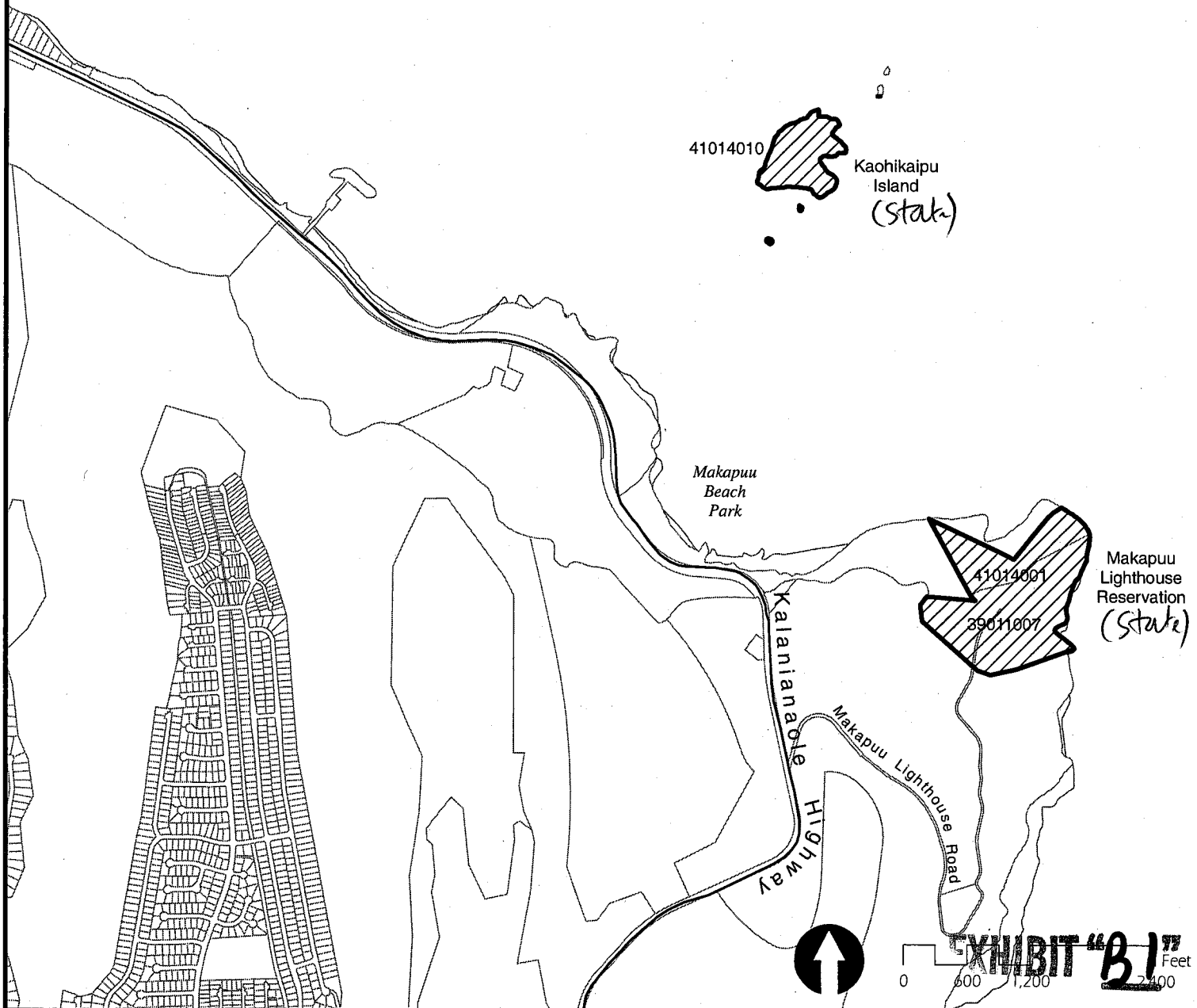
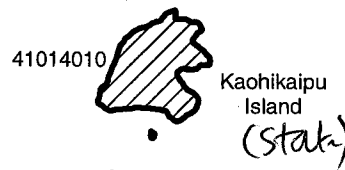
| | | | | | |
|-------------------------|-----------------|----------|--------------|----------------------------------|--------------------------|
| Molokini Island * | (2) 2-1-001:003 | 19.73 | Conservation | | |
| Mokuhooniki Island * | (2) 5-8-015:011 | 10.60 | Conservation | EO532 | DOFAW |
| Makanalua Bombing Range | (2) 6-1-001:002 | 7,213.78 | Agriculture | Kalaupapa National Historic Park | US National Park Service |

* Survey to include 3,000 foot buffer around Mokuhooniki Island and Molokini Island

| | | | | | |
|----------------------------------|-----------------|-----------|--------------|--|--|
| Waimea Training Area/Impact Area | (4) 1-5-001:001 | 5,185.26 | Conservation | RP6510 RP6511 | Genera Texeira c/o G.F. Genera Texeira Gay & Robinson |
| Wailua Artillery Impact Area | (4) 3-9-001:002 | 825.91 | Conservation | Lihue Koloa Forest Reserve GL3911 & GL 3940 | DOFAW Kauai Island Co-op |
| | | | | RP7333 RP7336 | Milton & Melanie Ann Ching Derek Rapozo |
| Wailua Artillery Impact Area | (4) 4-2-001:001 | 646.89 | Conservation | EO1389 GL3911 RP7339 | DOFAW Kauai Island Co-op Mary Thornas, Trustee |
| Wailua Artillery Impact Area | (4) 4-2-001:002 | 7,287.69 | Conservation | Lihue Koloa Forest Reserve GL3911 & GL 3940 | DOFAW Kauai Island Co-op |
| Wailua Artillery Impact Area | (4) 4-4-001:001 | 1,190.79 | Conservation | EO1389 | DOFAW |
| Wailua Artillery Impact Area | (4) 4-4-001:002 | 357.84 | Conservation | Lihue Koloa Forest Reserve | DOFAW |
| Wailua Artillery Impact Area | (4) 4-6-001:001 | 2,332.79 | Conservation | Kealia Forest Reserve | DOFAW |
| Wailua Artillery Impact Area | (4) 5-4-001:001 | 12,075.05 | Conservation | Halelea Forest Reserve; GL 3940 GL 3940 | DOFAW Kauai Island Co-op |



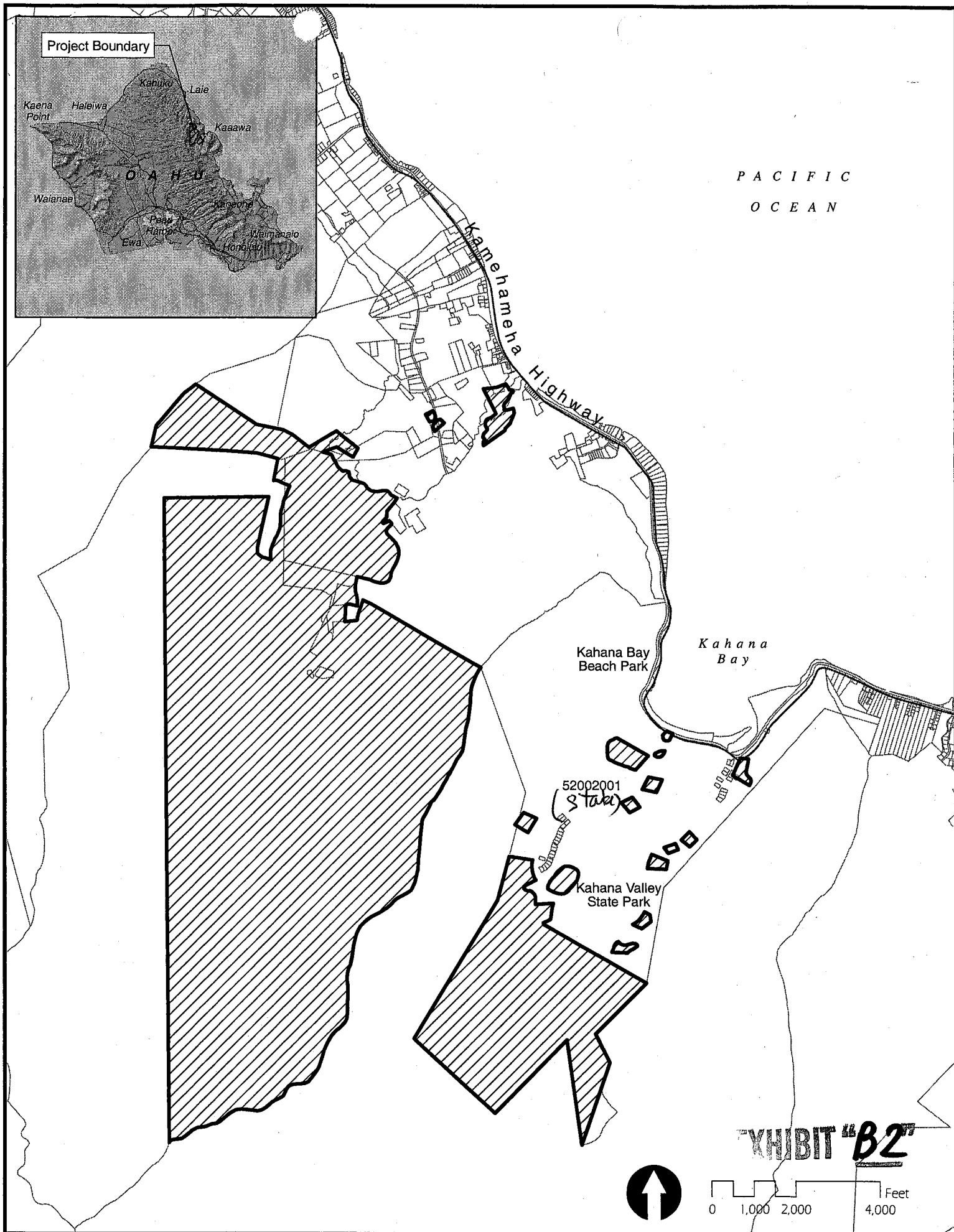
P A C I F I C
O C E A N



MAKAPUU LIGHTHOUSE RESERVATION, RABBIT ISLAND, AND KAOHIKAIPU ISLAND

Right-of-Entry for Site Inspection Phase of Formerly Used Defense Sites in Hawaii

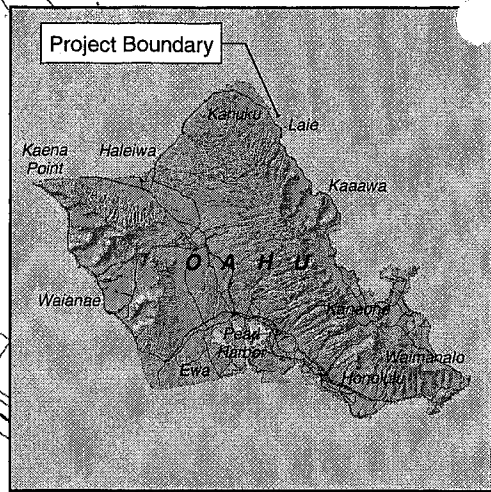
Maunaloa, Oahu, Hawaii



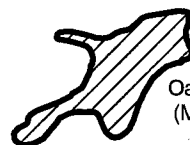
PACIFIC JUNGLE COMBAT TRAINING

Right-of-Entry for Site Inspection Phase of Formerly Used Defense Sites in Hawaii

Kahana Valley, Oahu, Hawaii



PACIFIC
OCEAN



Oahu Target Island
(Mokuauia Island)

(1) 5-6-001-002
(State)

Malaekahana
State Recreation
Area

Kalihihameha Highway

Laie
Bay

EXHIBIT "B3"

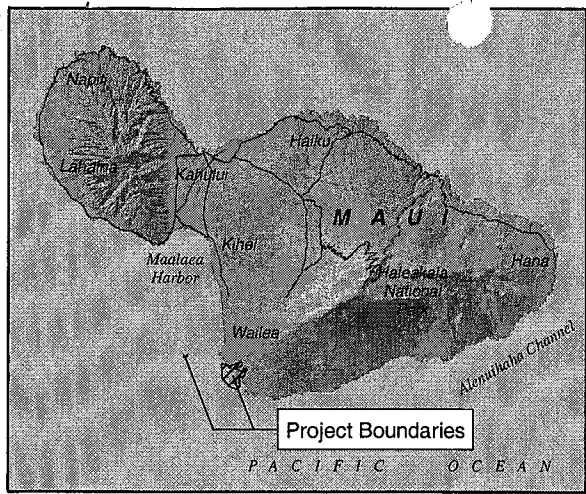


600 1,200 2,400 Feet

OAHU TARGET ISLAND (MOKUAUIA ISLAND)

Right-of-Entry for Site Inspection Phase of Formerly Used Defense Sites in Hawaii

Laie, Oahu, Hawaii



Unexploded Ordnance Removal
(Molokini Island)



221001003

Makena Beach

Maui Bombing Targets
(Kanaheha Point)

deleted

221004118

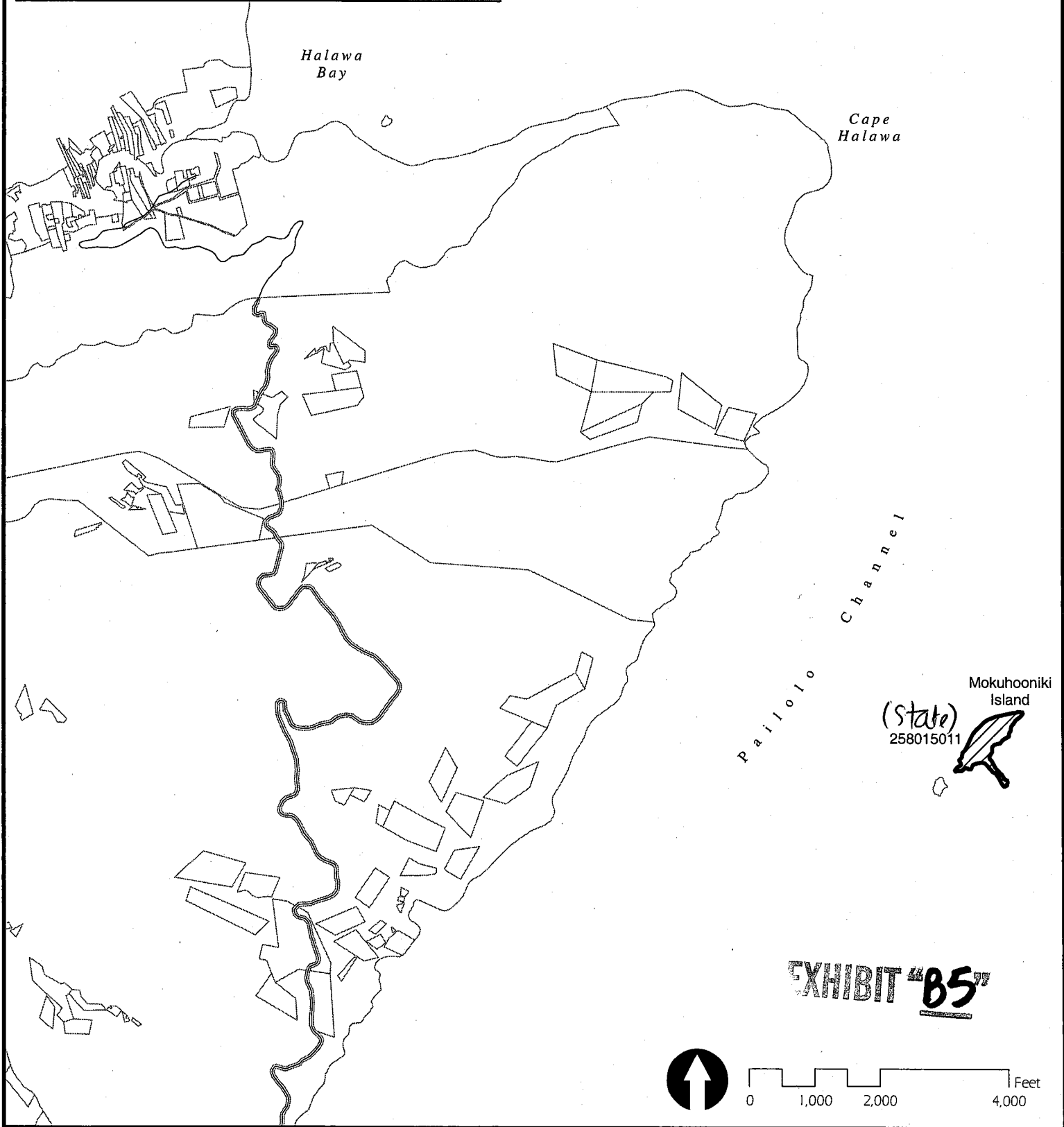
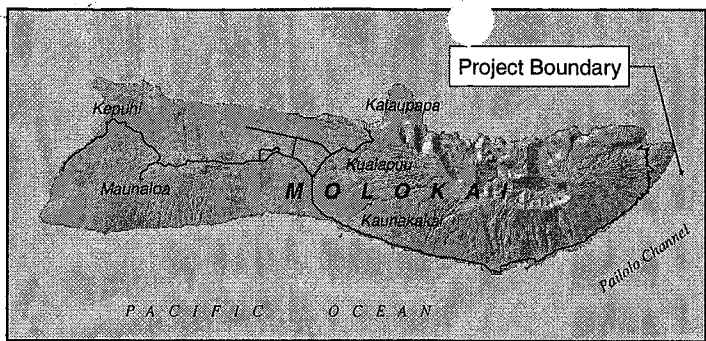
221004078

La Perouse Bay

EXHIBIT "B4"



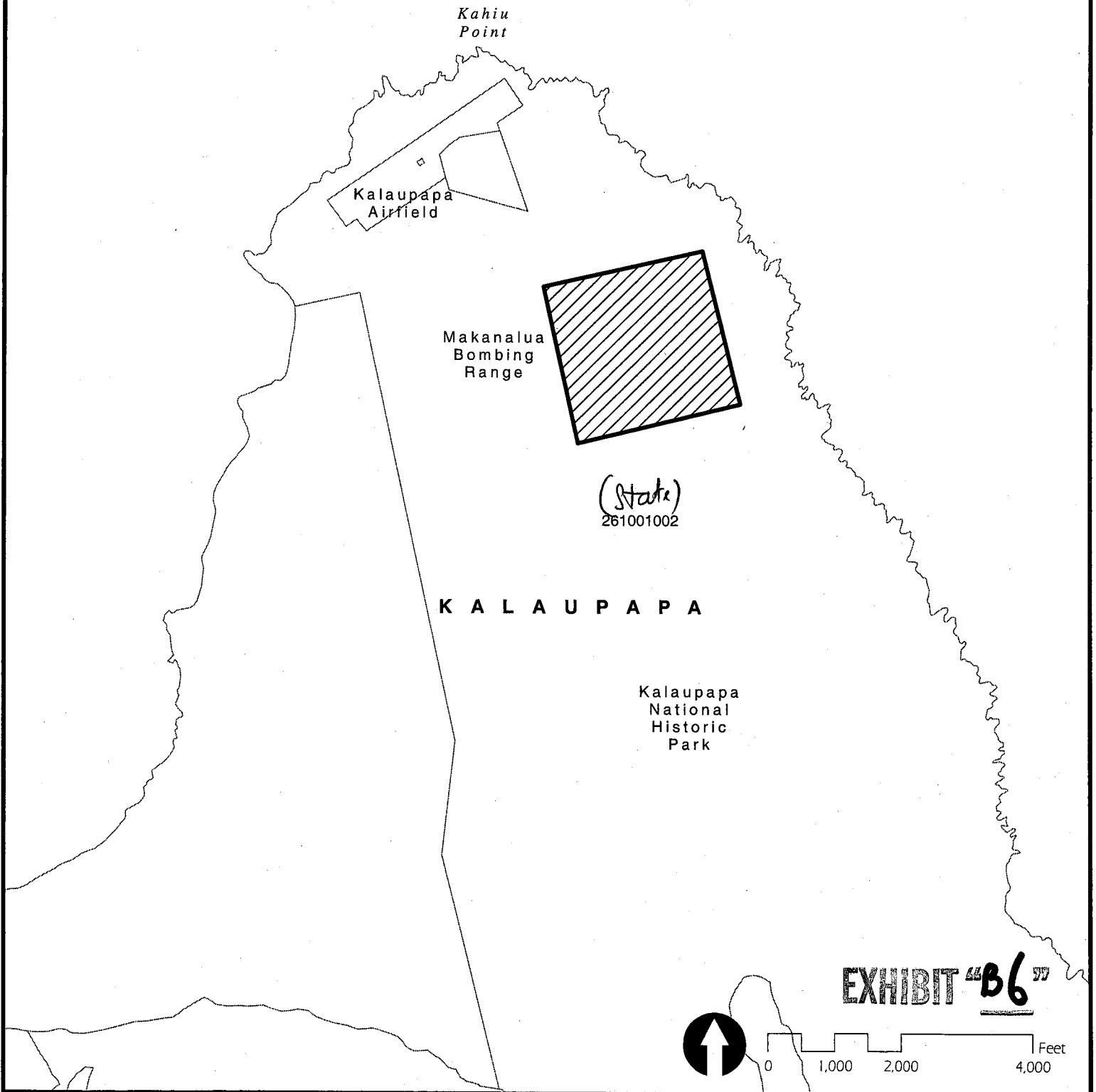
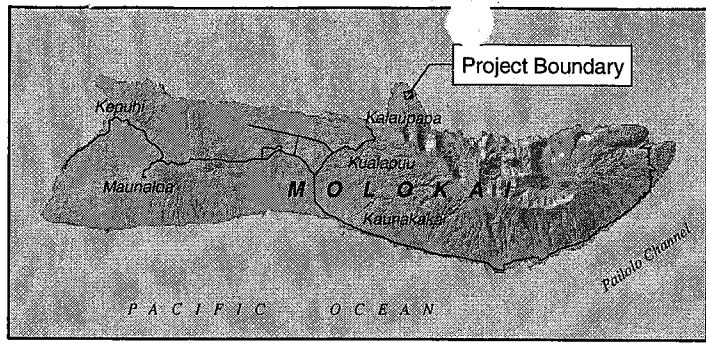
0 2,000 4,000 8,000 Feet



MOKUHOONIKI ISLAND

Right-of-Entry for Site Inspection Phase of Formerly Used Defense Sites in Hawaii

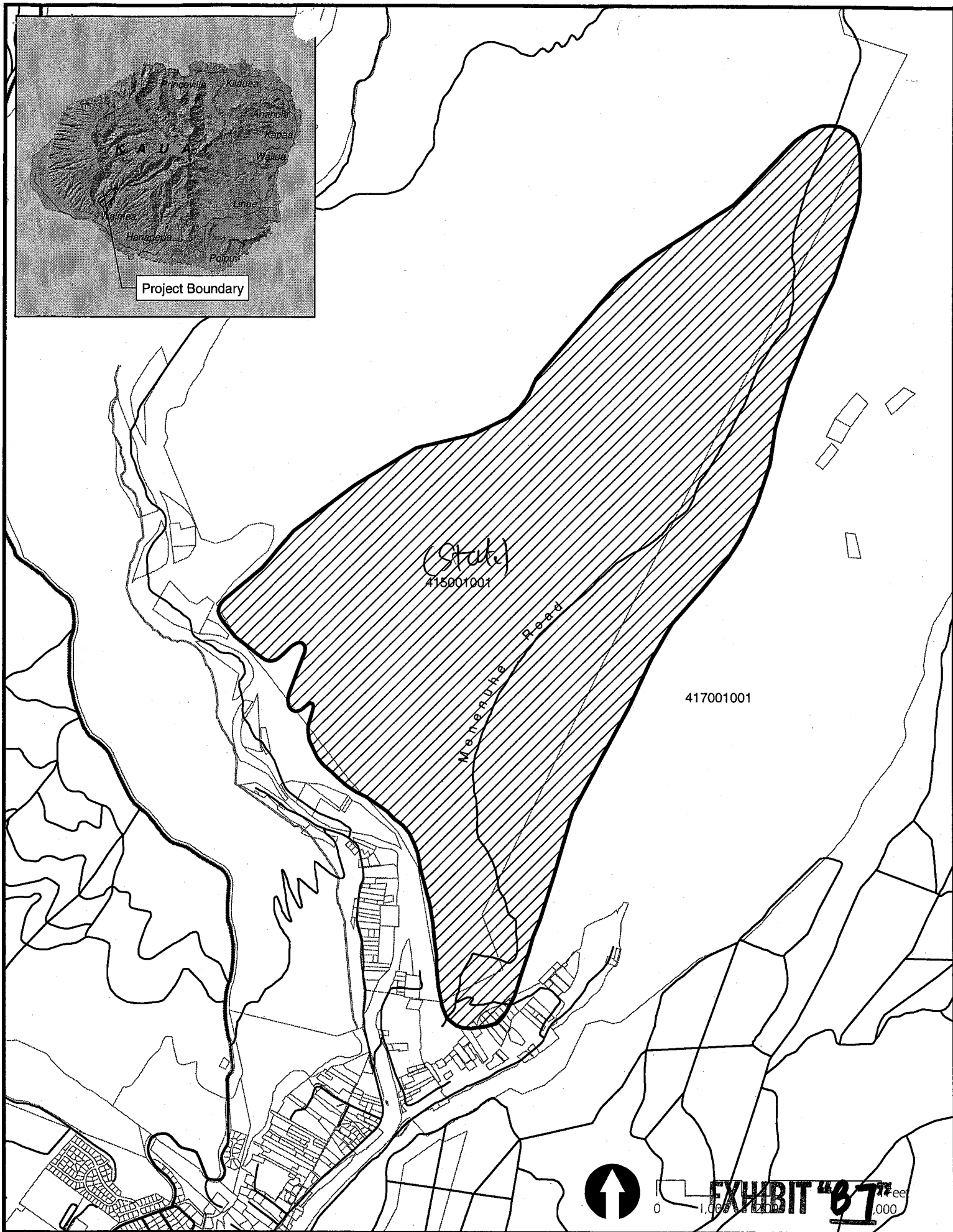
Mokuhooniki Island, Molokai, Hawaii



MAKANALUA BOMBING RANGE

Right-of-Entry for Site Inspection Phase of Formerly Used Defense Sites in Hawaii

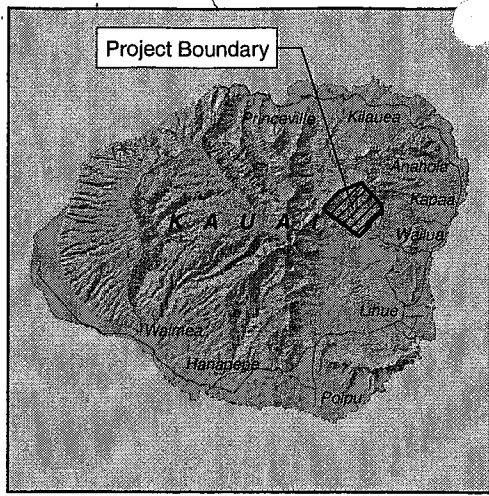
Kalaupapa, Molokai, Hawaii



WAIMEA TRAINING AREA/IMPACT AREA

Right-of-Entry for Site Inspection Phase of Formerly Used Defense Sites in Hawaii

Waimea, Kauai, Hawa



(Private)
452001004

(State)
454001001

446001001
(State)

(State)
442001002

(State)
444001002

444001001
(State)

(State)
442001001

439001002
(State)

Kuamoo Road

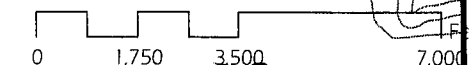


EXHIBIT "88"

WAILUA ARTILLERY IMPACT AREA

Right-of-Entry for Site Inspection Phase of Formerly Used Defense Sites in Hawaii

Wailua, Kauai, Hawaii

PHONE (808) 594-1888

FAX (808) 594-1865



STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS
711 KAPI'OLANI BOULEVARD, SUITE 500
HONOLULU, HAWAII 96813

HRD07/3302

November 19, 2007

Barry Cheung,
Land Agent
Land Division
Department of Land and Natural Resources
P.O. Box 621
Honolulu, HI 96809

Clayton Sugimoto
Wil Chee Planning, Inc.
1018 Palm Drive
Honolulu, HI 96814

RE: Request for comments on application allowing U.S. Army Corps of Engineer a right-to-entry for state lands to conduct unexploded ordinances survey on TMKs: (4) 4-2-001:002, (4) 4-6-001:001, (4) 5-4-001:001, (4) 4-2-001:001, (4) 4-4-001:001, (4) 4-4-001:002, (4) 3-9-001:002, (4) 1-5-001:001, (1) 3-9-011:007, (1) 4-1-014:001, (1) 5-6-001:002, (1) 4-1-014:009, (1) 4-1-014:010, (1) 5-2-002:001, (2) 5-8-015:011, (2) 6-1-001:002, (2) 2-1-001:003.

Dear Barry Cheung and Clayton Sugimoto,

Wil Chee Planning, Inc. is applying for a right-to-entry for state lands for the U.S. Army Corps of Engineers to conduct unexploded ordinances on the properties. OHA apologizes for the delayed response and offers the following comments.

OHA asks for information on why the UXO surveys are being conducted on these specific sites, at least 12 of which are Section 5(b) Ceded Lands. These lands hold a considerable amount of sentimental, historical and legal significance for Native Hawaiians and OHA. These lands were illegally taken from the Hawaiian Kingdom after the 1893 overthrow and later transferred ("ceded") by the United States government to the State of Hawai'i upon statehood. Today, the state holds the Ceded Lands in trust for Native Hawaiians and the general public, and OHA is supposed to receive 20 percent of all revenues generated on these lands. Keeping our kuleana

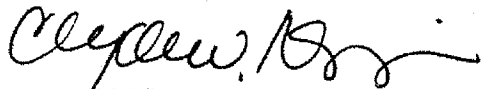
EXHIBIT "C"

Barry Cheung and Clayton Sugimoto
November 19, 2007
Page 2

to Ceded Lands in mind, we request more information regarding future plans for all of these parcels, particularly if those plans include more military bombing or development.

Thank you for the opportunity to comment. If you have further questions, please contact Sterling Wong (808) 594-0248 or e-mail him at sterlingw@oha.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Clyde W. Nāmu'o". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Clyde W. Nāmu'o
Administrator



United States Department of the Interior

NATIONAL PARK SERVICE
Kalaupapa National Historical Park
P.O. 2222
Kalaupapa, HI 96742

Tel: 808-567-6802
Fax: 808-567-6729

RECEIVED
LAND DIVISION

2007 NOV 26 A 9:30



DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

November 20, 2007

Barry Cheung, Land Agent
State Of Hawaii
Department of Land And Natural Resources
Land Division
P.O. Box 621
Honolulu, Hawaii 96809

Re: Request for Right-of-Entry for Unexploded Ordinances Survey- Makanalua Bombing Range

Dear Mr. Cheung:

Thank you very much for the opportunity to comment on the aforementioned application "Request for Right-of-Entry for Unexploded Ordinances Survey" for the Makanalua Bombing Range submitted by Wil Chee Planning, Inc. on behalf of the U.S. Army Corps of Engineers. In keeping with the National Park Service mandate to preserve the natural and cultural resources of Kalaupapa National Historical Park, the following recommendations, suggestions, and observations are provided.

- Though technically a borderline scientific research undertaking, since the preliminary scope of work will likely involve soil and perhaps water samples, the applicant will need to complete a 'Scientific Research and Collecting Permit' in advance of the project. Application procedures can be accessed online at <http://science.nature.nps.gov/research/ac/ResearchIndex>. In filling out the permit please provide details on the scope of work germane to both soil samples (e.g. spatial scale, number, depth, total volume, etc.) and water samples, if needed. However, based on the application there should be no standing water within the proposed project area.

It should also be noted that part and parcel to a research and collecting permit the applicant is responsible for submitting a final report and/or other applicable archival components of the project. However, we anticipate that your soil samples will be destroyed in analysis and will not be deposited into our collection. Any procedures or questions related to collections should be coordinated through Ms. Jennifer Cerny, Chief of Cultural Resources, Kalaupapa National Historical Park.

- In looking at your map submittal it appears as though the designated bombing range straddles both the peninsula's Makanalua *ahupua`a* and Kalawao *ahupua`a*.

EXHIBIT "D"

According to local knowledge, the large Makapulapai tumulus, which lies centrally within the Makanalua *ahupua`a*, was also part of the bombing range, and did incur some damage to archeological sites as a result of these former activities. It is unclear at this time from the map submittal if the tumulus falls within the project area boundaries. As such, a verification of the exact project area will need to be determined in advance of the undertaking.

- Along these same lines, archeological sites, including sensitive areas on the Makapulapai tumulus as well as caves with vegetation-obscured entrances are scattered throughout the area. Any reconnaissance activities within areas of dense vegetation, including vegetation clearing could potentially result in disturbance to sites and features that may not be readily apparent especially to the general laymen. In addition, the proposed collection of samples taken from surface soils would be of concern if these were collected around archeological sites or features. As such, the park would be willing to attach a resource advisor (i.e. archeologist) to the applicant's field crew to ensure full protection of archeological sites.
- Currently, Section V. E. "USE" indicates that no compliance (e.g. Environmental Assessment) is anticipated. It is our belief, however, that this federally proposed undertaking on behalf of the U.S. Army Corps of Engineers technically should trigger a Section 106 review in accordance with the National Historic Preservation Act of 1966, as amended, as the proposed actions have the potential to impact historic properties located within a National Historic Landmark. As such, does the Corps and/or the applicant intend to conduct any compliance on this project?

In summary Kalaupapa National Historical Park supports the intentions of the applicant to conduct a survey for unexploded ordinance within formerly used defense sites (e.g. Makanalua Bombing Range area). However, besides addressing the preceding four areas of concern it would be our overall recommendation for the applicant to conduct minimally a one-day project field assessment in advance of the survey. If you have any additional questions please contact Jennifer Cerny, Chief of Cultural Resources, at (808) 567-6802, extension 42 or Guy Hughes, Chief of Natural Resources, at (808) 567-6802, extension 41.

Sincerely,



Stephen T. Gibbons
Acting Superintendent
Kalaupapa National Historical Park

cc:

JCerny, KALA

GHughes, KALA

FHays, PACH

MLane-Kamahalele, PACH